

AGREEMENT

JAm 1999

THIS AGREEMENT (the "Agreement") is made as of ~~January 1, 1998~~, by and between Philip Morris Incorporated, a Virginia corporation with executive offices located at 120 Park Avenue, New York, New York 10017 ("Philip Morris"), and See Factor Industry, Inc., a New York corporation with executive offices located at 37-11 30th Street, Long Island City, New York 11101 ("SFI").

1. Services.

1999

SFI will perform technical production services, which will include the following, for Philip Morris and its ~~1998~~ **Philip Morris Presents Hispanic Concerts** to be held at the locations and on the dates set forth on Exhibit A hereto, and at other events reasonably requested by Philip Morris (the "Events"). SFI will:

(a) provide the personal services of Mr. Sheldon Diamond, which are the essence of the Agreement;

(b) provide the personal services of an operating crew for each Event. Such operating crew must be reasonably satisfactory to Philip Morris, which will include: Event supervisor, production manager, stage manager, site coordinator, master carpenter, master electrician, labor supervisors, light crew, sound crew, drivers and other personnel required for the staging, lighting, provision of sound, videowalls, lasers, hospitality trailer, fireworks and other special effects required by Philip Morris, and other technical services in connection with the Events (the "Operating Crew"); if at any time Philip Morris is dissatisfied with the performance of any member of the Operating Crew, Philip Morris will notify SFI and SFI will replace immediately the member of the Operating Crew with a member of the Operating Crew satisfactory to Philip Morris;

(c) provide supervision and support to the Operating Crew;

(d) provide technical assistance and advice to Philip Morris and third parties designated by Philip Morris on all matters relating to the staging, lighting, sound, videowalls, lasers, hospitality trailer and fireworks at all Event locations;

(e) if and when requested by Philip Morris, provide the following additional services with respect to equipment, machinery, systems, materials and accessories (the "Equipment"):

(1) supply and operate Equipment necessary for the first-class professional production of the Events in a safe and secure manner and maintain and repair Equipment. SFI warrants that all Equipment will be in good operating condition during all Events;

(2) provide exclusive, sufficient floor space at a location to be mutually agreed upon by Philip Morris and SFI for the Equipment and storage;

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Philip Morris will pay for expenses approved in advance by Philip Morris in connection with the safe and secure storage of the Equipment;

(3) supervise the assembly of Equipment prior to each Event and the dismantling of Equipment subsequent to each Event; and

(4) safely and securely transport the Equipment, as and when directed by Philip Morris prior and subsequent to each Event;

(f) cooperate with representatives of Philip Morris and third parties designated by Philip Morris;

(g) prepare and deliver to Philip Morris (i) on or before the second business day after each Event, a comprehensive written wrap-up report summarizing the services provided in connection with the Event in a form acceptable to Philip Morris, and (ii) on or before December 1, 1998, a final, comprehensive written wrap-up report in a form acceptable to Philip Morris, including recommendations to Philip Morris for the **1999 Philip Morris Presents Hispanic Concerts** program.

(h) upon Philip Morris' written request, return to Philip Morris or destroy in accordance with procedures approved in advance by Philip Morris, all materials provided by Philip Morris to SFI bearing the Philip Morris or **MARLBORO** names;

(i) be available to meet at reasonable times with Philip Morris representatives at Philip Morris headquarters in New York or other locations designated by Philip Morris; and

(j) render other services reasonably requested by Philip Morris in connection with the Events and perform in a professional manner throughout the term of the Agreement.

2. Payment.

as further specified in the attached Exhibits or Project Agreements

In full and complete consideration of the services rendered by SFI, Philip Morris will pay SFI a fee of \$44,020. ~~Philip Morris will pay SFI \$3,170 upon submission of an invoice within thirty days after execution of the Agreement; ten monthly payments of \$3,552 within thirty days after submission of an invoice on the first day of the month beginning on March 1, 1998 and continuing through December 1, 1998; and the balance of \$5,330 within thirty days after submission of an invoice and complete performance of all services, including submission of the wrap-up report, to the satisfaction of Philip Morris.~~

From USA v. u pay each month fee within 30 days after each concert date, receipt of an invoice + full recoupment for budget advances were specified in #3.

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3. Expenses.

PM USA will issue a deposit of advance equal to 50% of each operating budget 20 days prior to each concert. PM USA will issue 50% deposit prior to the balance of the operating budget 7 days prior to the day of each concert

Philip Morris will pay budget advances to SFI in accordance with the operating budget delivered by SFI, approved by Philip Morris and attached as Exhibit B hereto (the "Operating Budget"). Total expenses may not exceed the total of estimated expenses included in the Operating Budget without the prior, written approval of Philip Morris. The budget advances may be used only for approved expenditures in the categories set forth in the Operating Budget. SFI may not apply funds allocated to one budget category to expenses incurred in another category without the prior, written approval of Philip Morris.

Upon application of the advances to expenses, SFI will deliver to Philip Morris, on a monthly basis, itemized invoices for the expenses incurred. When Philip Morris delivers to SFI a budget advance for expenses based on the Operating Budget, SFI will, within thirty days after receipt of the advance, deliver a written reconciliation of the advance and the actual amount incurred by SFI during the time period covered in the itemized invoice. If the advance exceeds the actual amount incurred, Philip Morris will deduct the amount of the difference from the amount due SFI in the next succeeding invoice to be delivered by SFI to Philip Morris. All expenses incurred in excess of \$25 must be submitted with receipts. All expenses incurred in excess of \$250 which are not included in a budget approved by Philip Morris must be approved in advance by Philip Morris. Total expenses throughout the term of the Agreement may not exceed \$355,000 without Philip Morris' prior, written approval. On or before December 1, 1998, SFI will provide Philip Morris with a total reconciliation for the advances described herein. SFI will immediately refund to Philip Morris all advanced funding not utilized prior to December 1, 1998. *upon submission of the reconciliation on the exhibits and will refund*

4. Term, Termination and Renewal.

(a) The term of the Agreement will commence as of the date of the Agreement and will continue until the later of December 31, 1998 or the complete performance of all services to the reasonable satisfaction of Philip Morris.

(b) Philip Morris may terminate the Agreement for SFI's material breach of the Agreement upon thirty days' advance written notice to SFI. If SFI cures, to the reasonable satisfaction of Philip Morris, any curable breach within five days after the date of Philip Morris' notice of termination, the Agreement may not be terminated.

(c) If the Agreement is terminated without cause, Philip Morris will remain obligated to pay SFI amounts due for documented disbursements, or binding commitments to make disbursements, properly incurred by SFI prior to the date of Philip Morris' notice of termination. The payments will be made within twenty days after Philip Morris' receipt of a detailed invoice from SFI as to such amounts. Philip Morris will have no obligation for disbursements made or obligations assumed after the date of Philip Morris' notice of termination or for the portion of payments attributable to services to be rendered after the date of Philip Morris' notice of termination. SFI will provide Philip Morris with a final accounting of outstanding obligations incurred prior to the date of Philip Morris' notice of

termination within sixty days after the date of Philip Morris' notice of termination. SFI will assign to Philip Morris or its designated agent all of SFI's interests, rights and obligations under agreements entered into by SFI with respect to the Events within thirty days after the date of Philip Morris' notice of termination.

(d) If any federal, state, or local law, regulation, ordinance, order, ruling, judgment, consent decree or other governmental action becomes effective which makes the promotion of tobacco products as contemplated by the Agreement unlawful, impracticable or, in the judgment of Philip Morris, materially reduces the value of the Agreement to Philip Morris, Philip Morris may terminate the Agreement as of the effective date of the law, regulation, ordinance, order, ruling, judgment, consent decree or other action, and SFI will refund to Philip Morris all amounts paid to SFI by Philip Morris hereunder. SFI may deduct from the refund all documented nonrecoverable costs properly incurred by SFI prior to the termination date. SFI will immediately deliver documentation for all costs so deducted.

(e) Philip Morris has the right to renew the Agreement for one additional year upon written notice given to SFI no later than December 31, 1998. If Philip Morris determines in its sole discretion that the Events have been satisfactorily completed and that SFI has fully satisfied its obligations under the Agreement, Philip Morris will discuss with SFI the renewal of the Agreement for 1999 before negotiating or arranging for the provision of technical production services for the Events by a third party. If Philip Morris elects to renew the Agreement, all terms of the Agreement will be incorporated in any renewal, except for appropriate date changes, payment terms and as may otherwise be agreed between the parties. The parties will negotiate terms in good faith and memorialize their agreement in a separate writing.

5. Records.

SFI, its employees and agents will maintain detailed and accurate books and records of account with respect to activities undertaken on behalf of Philip Morris, and will provide periodic reports as and when requested by Philip Morris and a final accounting within thirty days after the conclusion of the last Event. Records of disbursements must indicate the check number, dollar amount, identity of the payee and reason for the expenditure. The final accounting must include an itemization of all expenses incurred and must be certified by an appropriate officer or authorized representative of SFI. Philip Morris, its employees and agents have the right, upon reasonable advance notice to SFI and at the expense of Philip Morris, to audit SFI's books and records throughout the term of the Agreement and for six months thereafter, to determine the correctness of the accounting, as well as SFI's compliance with its other obligations hereunder.

6. Confidentiality.

SFI, its employees and agents will hold strictly confidential the existence and terms of the Agreement and all information and materials provided by Philip Morris to SFI

or created or acquired by SFI in performing services pursuant to the Agreement. SFI will not use or disclose to any third party the existence or terms of the Agreement, the information and materials or any other confidential information unless authorized to do so in writing by Philip Morris. SFI will cause the information and materials to be retained in complete confidence and prevent the improper use or disclosure thereof by SFI's employees, agents, contractors and subcontractors, unless authorized to do so in writing by Philip Morris. Upon termination or expiration of the Agreement, SFI will return promptly all confidential information and materials to Philip Morris. SFI's obligation to maintain confidentiality will survive the termination or expiration of the Agreement.

7. Ownership.

All material prepared or developed by SFI in connection with the Agreement will become the property of Philip Morris and SFI hereby agrees to assign to Philip Morris any and all rights to copyright the material. SFI will require that all employees, consultants and subcontractors performing creative services in connection with the Agreement agree to assign the materials they produce to Philip Morris and to acknowledge, in writing, that their copyrightable contributions are owned by Philip Morris.

8. Third Party Contacts.

If at any time SFI is contacted by a third party, including the media, other than as contemplated by the terms of the Agreement, concerning its activities on behalf of Philip Morris, SFI will make no comment, immediately notify Philip Morris of the third party contact, and refer the third party to Philip Morris, Senior Vice President, Corporate Affairs.

9. Indemnity.

SFI agrees to indemnify and hold harmless Philip Morris, its affiliates and each of their respective officers, employees, directors and agents from all claims, liabilities, costs or expenses, including reasonable attorneys' fees, that arise from, or may be attributable to any error, omission or fault of SFI. SFI's obligation to indemnify and hold harmless will survive the termination or expiration of the Agreement.

Philip Morris agrees to indemnify and hold harmless SFI, its affiliates and each of their respective officers, employees, directors and agents from all claims, liabilities, costs or expenses, including reasonable attorneys' fees, that arise from, or may be attributable to any error, omission or fault of Philip Morris. Philip Morris' obligation to indemnify and hold harmless will survive the termination or expiration of the Agreement.

10. Independent Contractor.

Each of SFI and Philip Morris is an independent contractor of the other and the Agreement will not be construed to create an association, partnership, joint venture or relation of principal and agent or employer and employee between Philip Morris and SFI or any of SFI's employees or agents within the meaning of any federal, state or local law. SFI will not enter into an agreement, oral or written, on behalf of Philip Morris or otherwise obligate Philip Morris without having previously obtained Philip Morris' written approval.

11. Exclusivity.

During the term of the Agreement, and for six months thereafter, SFI will not, without the prior, written consent of Philip Morris, engage in technical production or similar activities for any person, company or other entity whose business competes with any tobacco product of Philip Morris.

12. Insurance.

Within thirty days after execution of the Agreement, SFI will deliver to Philip Morris certificates of insurance evidencing coverage for: (i) comprehensive general liability, including advertiser's, contractual, spectators' and participants' liability, with a combined single limit of no less than \$5,000,000 per occurrence for bodily injury, including personal injury, and property damage; (ii) comprehensive automobile liability for all owned, non-owned and hired vehicles with bodily injury limits of no less than \$5,000,000 per person, \$5,000,000 per accident and property damage limits of no less than \$5,000,000 per accident; and (iii) statutory worker's compensation coverage meeting all state and local requirements, including coverage for employer's liability with limits of no less than \$500,000. The certificates required by subparagraphs (i) and (ii) must name Philip Morris, its affiliates, employees and assigns as additional insureds and must state that Philip Morris will be provided at least thirty days' advance, written notice of a cancellation or modification of the insurance. The insurance required must be primary coverage without right of contribution from any other Philip Morris insurance. Insurance maintained by Philip Morris is for the exclusive benefit of Philip Morris and will not inure to the benefit of SFI. SFI will procure comparable certificates of insurance from all subcontractors of SFI and the insurance must name Philip Morris and its affiliates, employees and assigns as additional insureds.

13. The Philip Morris Names.

SFI recognizes and acknowledges that the Philip Morris name and the names of the Philip Morris brands and the designs, emblems, slogans and insignia associated with Philip Morris and its brands have great value and goodwill and are the sole property of Philip Morris, and SFI agrees that it has and will claim no right, title or interest in or to the same or the right to use the same except in accordance with the terms and conditions of the Agreement.

14. Miscellaneous.

(a) Force Majeure, acts of God, or other causes beyond the control of any party delaying or causing the cancellation or delay of an Event will not subject SFI or Philip Morris to any liability hereunder, except if, and to the extent, otherwise specifically provided herein.

(b) The Agreement and all matters collateral hereto will be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York.

(c) SFI will comply fully with all applicable laws, regulations, and ordinances relating to its performance of the Agreement. SFI acknowledges that it is cognizant of the provisions of 15 U.S.C. § 1331 et seq.

(d) The Agreement is the complete agreement between the parties and supersedes any prior oral or written agreement between the parties concerning the subject matter of the Agreement.

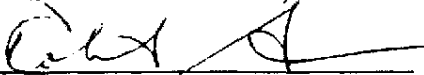
(e) If any provision of the Agreement is held invalid or unenforceable, the remaining provisions will remain in effect.

(f) The Agreement may not be modified, amended or assigned except in a writing signed by both parties. If an assignment occurs, the assignment will not relieve the assigning party of its liabilities or obligations under the Agreement. The Agreement is binding upon successors and assigns of the parties.

(g) A waiver by either party of any term or condition of the Agreement in one or more instances will not constitute a permanent waiver of the term or condition or any other term or condition of the Agreement or a general waiver.

(h) Notices provided hereunder will be in writing and sent by certified mail, return receipt requested, to the respective parties at their addresses set forth above. Notices to SFI will be sent, Attention: Mr. Robert See. Notices to Philip Morris will be sent, Attention: Director, Event Marketing.

SEE FACTOR INDUSTRY, INC.

By: 

Title: President

Taxpayer ID No.: 13-2775123

Filing Status: Corp

PHILIP MORRIS INCORPORATED

By: 

Title: _____

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